Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

JOSEPH M. STABILE,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

On Petition For Writ Of Certiorari
To The
United States Court Of Appeals For The Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

Joseph M. Stabile
In propria persona
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Questions Presented for Review

The Petitioner was sentenced to twenty-seven months incarceration pursuant to a plea agreement wherein he pleaded guilty to one count under 18 U.S.C. § 1343 and one count under 26 U.S.C. §7206. The following questions are respectfully submitted for the Court's review:

I.

Whether 18 U.S.C. § 1343 is unconstitutional either as written, as applied, or because Congress lacked the authority to enact it.

II.

Whether the trial court in the Southern District of Indiana had jurisdiction to sentence the Petitioner.

III.

Whether the trial court violated the Petitioner's Sixth Amendment rights, as clarified in *Blakely v. Washington*, __ U.S. __, 124 S. Ct. 2531, 159 L.Ed.2d 403 (2004), by enhancing his sentence based on facts not admitted to.

Parties to the Proceeding

The names of all parties to this proceeding appear on the cover hereto.

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Citation to Opinion

The United States Court of Appeals for the Seventh Circuit's unpublished opinion in this case is reported at 122 Fed. Appx. 856 (7th Cir. 2005) and is reprinted in the Appendix hereto.

Statement of Jurisdiction

The decision of the United States Court of Appeals for the Seventh Circuit was entered on February 2, 2005. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254.

Constitutional Provisions and Statutes Implicated

U.S. Const. Art. I, Sec. 8, Cl 5. Coinage, weights and measures.

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

U.S. Const. 6th Amend. Rights of the accused.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

18 U.S.C. § 1343. Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation affects a financial institution, such person shall be fined not more than $ 1,000,000 or imprisoned not more than 30 years, or both.

Statement of the Case

I. Factual Background

The Petitioner, Joseph Stabile, was accused of inducing a resident of the state of Indiana to invest $98,000 in a company owned by him, and then using the money for his own ends. The Petitioner's son was on the company's payroll while attending college, and the Petitioner was also accused helping his son file false tax returns. Pursuant to a plea agreement the Petitioner pleaded guilty to one count of wire fraud, 18 U.S.C. § 1343, and one count of aiding and abetting a false tax return, 26 U.S.C. § 7206(2). The Petitioner accepted the agreement with the understanding that jurisdiction would be transferred to California pursuant to Federal Rule of Criminal Procedure 20. The original agreement provided for fifteen to twenty-one months incarceration.

Anticipating the transfer, the Petitioner retained counsel in Los Angeles, California. Said counsel advised Petitioner that it was unnecessary to attend a hearing scheduled in Indiana in April of 2003. Petitioner followed the advice of his attorney, but a bench warrant was issued based on his failure to attend the hearing. After his arrest, Petitioner was sentenced to twenty-seven months incarceration, three years of supervised release, and ordered to pay $98,000.00 restitution.

II. Decisions Below

Immediately after sentencing, the Petitioner filed an appeal with the United States Court of Appeals for the Seventh Circuit. This appeal was prepared and filed without benefit of counsel. Furthermore, Petitioner's original release date of June 22, 2004 was arbitrarily

delayed until July 28, 2004. The brief to the Circuit Court was due July 26, 2004.

The Circuit Court decided the issue on the briefs, without oral argument. It issued an Order February 2, 2005, in which it dismissed part of Petitioner's arguments as 'frivolous' without discussing the merits, and in fact claiming that they were similar to arguments raised in other recent cases which in fact share nothing in common other than a constitutional attack on the wire fraud statute, 18 U.S.C. § 1343. The court refused to consider the remainder of Petitioner's arguments due to 'lack of development' in the Petitioner's brief, in spite of the fact that Petitioner did in fact develop these arguments and that the court was aware of Petitioner's *pro se* status.

Argument

The Court should grant a Writ of Certiorari to hear this case because it concerns issues of utmost importance to all Americans. In addition, the federal wire fraud statutes are unconstitutional on many levels, there was no jurisdiction to sentence the Petitioner in the district court in Indiana, and his sentence was unconstitutionally enhanced.

I. The Court Must Declare 18 U.S.C. § 1343 Unconstitutional For The Good Of America, Because The Federal Reserve Is A Private Entity, And Because The Statute's Enactment Was Not Within Congress' Authority

The federal wire fraud and mail fraud statutes, 18 U.S.C. § 1343 and 18 U.S.C. § 1341 respectively, are basically identical with the obvious exception of the former concerning communication via wire and the latter concerning communication via mail. In enacting the wire fraud statutes, Congress "intended merely to establish . . . a parrallel provision [to that] now in the law for fraud by mail." S. Rep. No. 44, 82d Cong., 1st Sess. 19 (1951). Many courts, including this one, have recognized the similarity in the two statutes and applied the same analysis to both. *See, e.g., Carpenter v. United States*, 484 U.S. 19, 24, 108 S. Ct. 316, 320, 98 L. Ed. 2d 275, 282, at n. 6 (1987) (stating that "the mail and wire fraud statutes share the same language in relevant part, and accordingly we apply the same analysis to both sets of offenses here"); *United States v. Evans*, 844 F.2d 36 (2nd Cir. 1988) (referring to the wire and mail fraud counts collectively as the 'federal fraud' counts, because both statutes share the same relevant language); *see also United States v. Gimbel*, 830 F.2d 621, 627 (7th Cir. 1987); *United States v. Herron*, 825 F.2d 50, 54 n.5 (5th Cir. 1987); *United States v. Feldman*, 711 F.2d 758, 763 n. 1 (7th Cir. 1983).

The following is a verbatim account that was submitted under oath, previously presented to this Court in a Petition for Writ of Certiorari:

> U.S. District Court Judge Maxine Chelsney (Northern District of California) made a monumental decisions, which, if published (in 1973), would have been a pivotal, precedent-setting case. At the time, Judge Chelsney w as a Superior Court Judge for the State of California in San Francisco, California.
>
> A United States Postal Inspector was on the witness stand being cross-examined by the defense counsel. The Inspector was asked, "Is the Postal Service a part of the federal government?"
>
> When the Inspector said , "No," Judge Chelsney was so surprised, then she assumed the questioning.
>
> "What?" she exclaimed, "The Postal Service is not part of the government?"
>
> "No ma'am."
>
> "When did this happen?"
>
> "Sometime in July of 1970."
>
> "How did that happen?"
>
> "The federal government sold the postal department to a private corporation."
>
> "What? The federal government does not own the postal department?"
>
> "The Postal Service . . . when the government sold the postal department to a private corporation, the private corporation changed the name from the U.S. Postal Department to the U.S. Postal Service."
>
> "But you are paid by the government . . . the U.S. Treasury Department."

"No ma'am."

"What?"

"At the same time, the government gave half of the Treasury Department to the Federal Reserve Bank so that there are two treasuries. One part is called the United States Treasury and the other part is called the Treasury of the United States. You get paid by the United States Treasury but we get paid by the Treasury of the United States. The way I understand it, the U.S. Postal Service gives the money to the Treasury of the United States. The Treasury of the United States then pays our salaries by check on the Treasury of the United States."

"We have two treasuries?"

"Yes ma'am."

"Gentleman, we have a Constitutional issue here."

Prosecutor: "Yes ma'am."

Defense: "Indeed so ma'am, indeed so."

(After deliberation), "This is my decision. I'm dismissing the charges because the mail laws are unconstitutional. The federal laws regarding the U.S. Mails were established for the U.S. Postal Department . . . an agency of the United States . . . not for the Postal Service . . . a private corporation. When the federal government sold the Postal Department to the a private corporation, it nullified the federal laws relating to the U.S. Mails. The government cannot make laws regulating and protecting one private corporation and then exclude other private corporations. As the law stands now, a person could be arrested for stealing a memo from a secretary of a boss in a corporation like

> I.B.M. That is unconstitutional. Even if the federal government subsidizes the Postal Service, it is still a private corporation and the government cannot make laws concerning a single private corporation. If so, the federal government could regulate Ford and allow Chevrolet complete autonomy . . . No, gentlemen . . . not in this Court . . . the federal mail laws are unconstitutional.
>
> Charges are dismissed . . . case is closed."

Petition for Writ of Certiorari, No. 03-8506 (2004), *writ denied by Markevitz v. United States,* 540 U.S. 1210, 124 S. Ct. 1487, 158 L. Ed. 2d 136 (2004).

In September of 1994, Section 1343 was amended, adding "or deposits or causes to be deposited any matter or thing whatsoever to be sent or delivered by ***any private or commercial*** interstate carrier." (emphasis added).

Wire transfers, such as the one in this case, are conducted through the Federal Reserve. Like the U.S. Postal Service, the Federal Reserve Banks are "independent, privately owned and locally controlled corporations." *Lewis v. United States of America*, 680 F.2d 1239, 1241 (1982). "Each Federal Reserve Bank is a separate corporation owned by commercial banks in its region." *Id.* The same logic and reasoning used by Judge Chelsney in determining that the mail fraud statute was unconstitutional because a private entity was delivering the mail applies to the wire fraud statute, where a private bank is delivering the money.

The Federal Reserve Board, despite not being a governmental body, in effect makes federal law. As an example, the Board has stated "the adoption of these rules as federal law is necessary, in light of the national scope of the Fedwire system" and "is necessary to ensure that law applicable to funds transfers involving Federal Reserve Banks is uniform for all Fedwire funds transfers, regardless of the location of the

banks involved in the funds." 55 F.R. 40791 (1990). This regulation specifies that inconsistent provisions of state law are pre-empted, while state law that does not conflict is not pre-empted.

> It is apparent from the U.C.C. commentary that a uniform and comprehensive national regulation of Fedwire transfers was the goal of the Board in adopting Article 4A. n9 Furthermore, the Board has made clear that the type of state laws it considers not in conflict with Subpart B are state laws specifically governing funds transfers and parties not subject to Subpart B.

Donmar Enterprises, Inc. v. So. National Bank of N.C., 64 F.3d 944, 949 (4th Cir. 1995).

Congress has bestowed exclusive jurisdiction of the banking sector of this nation to the Federal Reserve. It literally makes its own federal laws, which trump state laws that are not in harmony with what it decrees.

The actions of the Federal Reserve aside, Congress had no authority to abandon its responsibility to the Federal Reserve, and the statutes doing so (thereby created the Federal Reserve) are unconstitutional. The Constitution grants Congress the authority to "coin Money [and] regulate the Value thereof." U.S. Const. art. I, § 8. Congress has transferred this to the Federal Reserve, and the GAO is prohibited – except with express permission – from auditing the Federal Reserve. Congress has the authority to "regulate the value" of money, but it does not have the authority to give away that ability to a private entity that is beyond its control. The Federal Reserve is regulating the value of money, and Congress has no say. Congress may be able to delegate authority in some instances, but the Constitution gives it no right to complete abdicate such authority. It is made infinitely worse by the fact that the entity to which Congress – an elected body – abdicated authority over such a crucial issue is not only completely free of the

oversight of elected officials, but is in fact a private corporation.

In addition to ceding control of the American economy to a private corporation, the 'money' issued by the Federal Reserve has value only because they say so:

> Modern monetary systems have a fiat base – literally money by decree – with depository institutions, acting as fiduciaries, creating obligations against themselves with the fiat base acting in part as reserves. . . . However, a forceful explanation as to why money is accepted is that the federal government requires it as payment for tax liabilities. Anticipation of the need to clear this debt creates a demand for the pure fiat dollar. . . . In the United States neither paper currency nor deposits have value as commodities."

Mack Ott, "Money, Credit, and Velocity," 64 FED. RESERVE BANK OF ST. LOUIS REVIEW 21, 25 (1982). This Court has said that such money is valid, but only as an adjunct to Congress' power "to borrow money on the credit of the United States." *Legal Tender Case; Juilliard v. Greenman*, 110 U.S. 421, 444, 4 S. Ct. 122, 128, 28 L. Ed. 204, 213 (1884). The power to borrow:

> is the power to raise money ***for the public use*** on a pledge of the public credit, and may be exercised to meet either present or anticipated expenses and liabilities of the government. It includes the power to issue, in return for the money borrowed, the obligations of the United States in any appropriate form. . . . ***Congress*** has authority to issue these obligations in a form adapted to circulation from hand to hand in the ordinary transactions of commerce and business. In order to promote and facilitate such circulation, to adapt them to use as currency, and to make them more current in the

> market, it may provide for their redemption in coin or bonds, and may make them receivable in payment of debts to the government.

(emphasis added) *Id.* The timing of the above case is of the utmost significance: it was during a time of national emergency, namely the Reconstruction period following the Civil War, and the bulk of the notes in question had been printed during the war itself. Even so, notice the focus on the power belonging to Congress and the necessity of a public use of the funds raised by issuing such notes.

Far from benefitting the public, the present system is administered by a private corporation and benefits primarily bankers and money speculators. At one time, paper money could be exchanged on demand for 'real' money: specie such as gold or silver. Legislature enacted in 1933, however, devalued the currency of the United States by prohibiting the payment of specie in exchange for paper money. 31 U.S.C. § 5118; *see also Rudolph v. Steinhardt*, 721 F.2d 1324, 1325-26 (11th Cir. 1983). This legislation, and subsequent Executive Orders, devalued the currency by some forty percent.

Instead of being tied to a stable, valuable commodity, our 'money' now flutters on the breezes of world currency trading and the whims of the Federal Reserve. The net result is that Americans are working more and more and what they receive is worth less and less. The hardest hit are the poor and those on fixed incomes, but even 'middle-class' families now require both parents to work full-time in order just to maintain their standard of living, let alone be able to get ahead.

While it may seem that we have wandered somewhat from the original point of this Petition, nothing is further from the truth. The validity of the Federal Reserve system, its paper money and Fedwire regulations, are all phony. Federal Reserve Banks are locally owned and controlled by private commercial banks.

In *Committee for Monetary Reform v. Board of Governors of the Federal Reserve System*, 766 F.2d 538 (1985), several concerned individuals challenged the constitutionality of the Federal Reserve System. The plaintiffs argued that the statutes authorizing the Federal Reserve to control the money supply "represent an unconstitutional delegation of the Article I, Section 8 power of Congress, 'To coin money [and] regulate the value thereof. . .' in that neither they nor any other statutes provide any meaningful criteria to guide the administrative exercise of the power so delegated." *Id.* at 541. The court in that case refused to consider the Constitutionality of the statutes, disposing of the matter instead on the grounds that the plaintiffs had no standing. *Id.*

Unlike in the above case, however, the Petitioner has standing to argue the constitutionality of these statutes because they intimately effect the constitutionality of the statute he was sentenced under. The fact that the Federal Reserve System is unconstitutional directly effects the validity of the Fedwire system, transfers over that system, and in fact currency in general.

A ruling by this Court that the wire statute is unconstitutional would be a wake-up call to the American people. The judiciary is the only branch of government not heavily influenced by those who most benefit from the current system. Modern political campaigns are enormously expensive (thanks in part to the devaluation of our currency), and both the legislature and executive branch are beholden to those who hold the purse strings – and those with the deepest pockets are the ones that benefit most from the current system.

II. The District Court Had No Jurisdiction To Sentence Petitioner Under 18 U.S.C. § 1343

A. There Were Insufficient Interstate Acts To Subject Petitioner To Federal Law

If the Petitioner's actions were truly 'interstate,' the Petitioner should have been charged in Florida – where the only 'interstate' action/effect took place. Otherwise, he should have been charged in Indiana – under Indiana state criminal law – for any fraudulent activity in that state. According to the United States Department of Justice, only when a mail/wire fraud scheme is directed at a "class of persons or the general public [will] serious consideration be given to prosecution." UNITED STATES ATTORNEY'S MANUAL, § 9-43.1210 (1984). Otherwise, "the parties should be left to settle their differences by civil or criminal litigation in the state courts." *Sedima v. Imrex*, 473 U.S. 479, 105 S. Ct. 3275, 87 L. Ed. 2d 346 (1985).

In *United States v. Ringer*, 300 F.3d 788 (7th Cir. 2002), an individual was charged with making false statements to federal officers in the Eastern District of Kentucky, but he was tried in the Southern District of Indiana. *Id.* at 792. The appellate court held that although the underlying crime occurred at another locality, the statements were intended to influence a trial set to occur in Indiana. *Id.*

No interstate nexus played a significant part in enabling the Petitioner to acquire dominion over the amount of money at issue. The interstate nexus requirement of mailing, wiring or even communicating must, at the very least, be incidental to an essential part of the charged activity. *Schmuch v. United States*, 489 U.S. 705, 710-11, 109 S. Ct. 1443, 1447-48, 103 L. Ed. 2d 734, 742-43 (1989). Both the Petitioner and the alleged victim were located in the state of Indiana at all relevant times. The mere fact that money left the state should not vest the federal court with jurisdiction nor subject the Petitioner to federal law.

> The nexus with interstate commerce, which courts frequently call the 'jurisdictional element,' is simply one of the essential elements of [the offense]. Although courts frequently call it the 'jurisdictional element' of the statute, it is 'jurisdictional' only in the shorthand sense that ***without that nexus, there can be no federal crime***

Hugi v. United States, 164 F.3d 378, 381 (7th Cir. 1999) (emphasis added).

The relevant parts of the wire fraud statute state define the offense as "obtaining money or property by means of false or fraudulent pretenses, representations, or promises" and requires transmission "by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds ***for the purpose*** of executing such scheme or artifice." 18 U.S.C. § 1343 (emphasis added). Any such transmission, however, was completely incidental any "scheme or artifice."

If there was any criminal act – or any act at all – for the purpose of executing a fraudulent scheme, it occurred solely within the state of Indiana. Only at the completion of such act, where the "obtaining money by false or fraudulent pretenses" was entirely complete, was there an interstate wire transfer of money. By its plain language, the statute simply does not apply under the facts of this case. Any jurisdiction claimed through application of this statute or prosecution thereunder was void.

B. Even If 18 U.S.C. § 1343 Applied, The District Court Did Not Have Jurisdiction

There are only two bases for a federal court to Constitutionally exercise criminal jurisdiction over a defendant: the common law, and admiralty jurisdiction. This Court held in *Erie R.R. v. Tompkins*, 304 U.S. 64, 58 S. Ct. 817, 82 L. Ed. 1188 (1938) that there was no general

federal common law. Specifically, there are no federal common law crimes. Accordingly, under the U.S. Constitution, federal law crimes can only be brought under admiralty jurisdiction.

The term "United States District Court" is defined as a legislative - territorial court, created under Article IV, clause 2 of the U.S. Constitution, and is not an Article III, District Court of the United States. "U.S. District Courts are not Courts of general jurisdiction. They have no jurisdiction, except as prescribed by Congress pursuant to Article III of the Constitution." *Graves v. Administrator*, 541 F.2d 159, 161 (6th Cir. 1976).

Admiralty jurisdiction requires that a maritime contract be involved, that the defendant be a party to that contract, has in fact breached that contract, and the Court is invoking Admiralty jurisdiction. In *American Insurance v. 356 Bales of Cotton*, 26 U.S. 511, 7 L. Ed. 242 (1828) and in *Romero v. International Terminal Operating Co.*, 358 U.S. 354, 79 S. Ct. 468, 3 L. Ed. 2d 368 (1959), this Court held that Admiralty jurisdiction can only be involved in an Article III, section 2, clause 1 Court.

In *Wau-pe-man-qua v. Aldrich*, 28 F. 489 (C.C.D. Ind. 1886), the court held that: "By the preamble to the first constitution of Indiana, framed in compliance with the enabling act of Congress, approved April 19, 1816, the Ordinance of 1787 for the government of the Northwest Territory was continued in force." Not only was the Northwest Ordinance to be in force in 1886, it was to be force in perpetuity. Under the terms of the ordinance, all inhabitants of Indiana were guaranteed to have all judicial proceedings only under common law.

The Petitioner thus could only be prosecuted under the common law, but as discussed earlier there are no federal common law crimes. That leaves only admiralty as a basis of jurisdiction, but admiralty actions can only be brought by an admiralty court, of which the Indiana district court was not one. Nor was the Petitioner party to an

international maritime contract or otherwise susceptible to admiralty jurisdiction.

III. The Petitioner's Sentence Was Unconstitutionally Enhanced Under The *Blakely* Decision

As discussed in the Statement of the Case, the Petitioner agreed to a plea agreement that, among other things, stipulated from fifteen to twenty-one months incarceration. However, the trial court sentenced him to twenty-seven months incarceration and refused to allow him to withdraw his plea. The increased sentence was based on Petitioners failure to appear at a hearing in Indiana – following his attorney's advice – and the court's subsequent issuance of a bench warrant. This enhancement of Petitioner's sentence based on facts not included in his plea agreement was unconstitutional.

In *Blakely v. Washington*, __ U.S. __, 124 S. Ct. 2531, 159 L.Ed.2d 403 (2004), this Court held that a similar sentence enhancement violated the defendant's Sixth Amendment rights. In *Blakely*, the defendant pleaded guilty to kidnapping his wife. The trial judge found that the defendant acted with "deliberate cruelty" and enhanced the sentence by nearly 40 months. *Id.* at 2534. However, the facts upon which the judge based the enhancement had not been ascertained by the jury nor admitted by the defendant in his plea agreement. "When a defendant pleads guilty, the State is free to seek judicial sentence enhancements ***so long as the defendant either stipulates to the relevant facts or consents to judicial factfinding.***" *Id.* at 2540 (emphasis added).

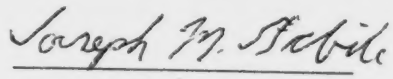
In this case, the judge enhanced the sentence by over one-quarter more than the originally agreed to sentence. Furthermore, he did so based on facts to which the Petitioner did not admit or stipulate.

Nor did the Petitioner consent to judicial fact finding. The trial court denied the Petitioner his Sixth Amendment rights.

IV. Conclusion

The Court should grant Certiorari in this case because matters of vital importance to the people of this country, and to America as a country, are at stake. Congress' abdication of control of the money supply is unconstitutional, and all statutes springing therefrom are likewise unconstitutional. Furthermore, the district court had no jurisdiction to hear this case and subsequently sentence the Petitioner. Finally, the Petitioner's sentence was unconstitutionally enhanced in violation of the Sixth Amendment.

Respectfully Submitted,



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Appendix

Opinion

UNPUBLISHED OPINION

United States Court of Appeals

For the Seventh Circuit

Decided February 2, 2005

No. 03-2154

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOSEPH M. STABILE,

Defendant-Appellee.

ORDER

Joseph Stabile pleaded guilty to one count of wire fraud, 18 U.S.C. § 1343, and one count of assisting in the preparation of a false tax return, 26 U.S.C. § 7206(2). The district court sentenced Stabile to concurrent 27-month terms of incarceration, three years of supervised release, and $ 98,000 in restitution. We affirm the judgment.

Stabile waived indictment and pleaded guilty to an information. He admitted inducing an Indiana resident to invest $ 98,000 in a defunct company; some of the money was wired from the victim's bank in Vincennes, Indiana to a bank in Florida where Stabile maintained an account. Stabile used the victim's money for his own personal expenses and gifts to his girlfriend, and diverted some to his son, a college student at the time. Stabile also admitted that each year from 1994 to 1997 he assisted in the preparation of federal income tax returns for his son that

falsely reported wages and tax withholdings; those returns claimed refunds of the fictitious tax payments along with earned income credits and netted the son $ 18,611. By the time he was sentenced in April 2003, Stabile had been in custody for almost seven months, and during the pendency of this appeal he completed his period of imprisonment.

Stabile, who is pro se, leads off with two patently frivolous contentions. Like others before him, he argues that the district court lacked jurisdiction over his prosecution because, he contends, jurisdiction over federal crimes arises only under the court's admiralty powers and regardless does not extend to offenses committed on lands not owned or controlled by the federal government. But in *Hugi v. United States*, 164 F.3d 378, 380 (7th Cir. 1999), we held that "there can be no doubt that Article III permits Congress to assign federal criminal prosecutions to the federal courts," and we have recognized in a long line of cases that challenges to the territorial jurisdiction of the district courts are frivolous, *e.g., United States v. Banks-Giombetti*, 245 F.3d 949, 953 (7th Cir. 2001). Moreover, we recently dismissed a contention very much like Stabile's that the wire fraud statute is an unconstitutional exercise of Congressional power. *See United States v. Hausmann*, 345 F.3d 952, 958 n.4 (7th Cir. 2003) (holding that Congress' power to regulate the use of interstate wire communications systems is authorized in the text of the Constitution itself--in Article I, Section 8, Clause 7).

Stabile also argues that his tax fraud conviction should be vacated because the venue of prosecution was improper. Questions of venue, though, are not jurisdictional, *see, e.g., Moore v. Olson*, 368 F.3d 757, 760 (7th Cir. 2004), and so they fall squarely within the rule that non-jurisdictional defects are waived by a guilty plea, see *United States v. Rogers*, 387 F.3d 925, 932 (7th Cir. 2004); *United States v. Elizalde-Adame*, 262 F.3d 637, 639 (7th Cir. 2001); see also *United States v. Brown*, 583 F.2d 915, 918 (7th Cir. 1978) (holding that a

defendant who pleads guilty waives "venue protection under Article III and the Sixth Amendment").

Stabile's remaining contentions--including a constitutional challenge to the institution of supervised release; a charge that the government breached an agreement to transfer his case to the Central District of California pursuant to Federal Rule of Criminal Procedure 20; an allegation that the government suppressed information contradicting its claim that Stabile willfully failed to appear for a court date during pretrial proceedings; a challenge based on the lack of an "interstate nexus" for the wire fraud charge; and the merest of allusions to the Supreme Court's decision in *Blakely v. Washington*, 159 L. Ed. 2d 403, 124 S. Ct. 2531 (2004)--are all waived for lack of development in the initial appellate brief, although some of them were developed further elsewhere. *See Duncan v. State of Wis. Dep't of Health and Family Servs.*, 166 F.3d 930, 934 (7th Cir. 1999) (holding that all arguments not developed in a party's opening brief will be deemed waived or abandoned); *Elizalde-Adame*, 262 F.3d at 640 (holding that arguments raised for the first time in the reply brief are waived). We, of course, construe the briefs of *pro se* defendants liberally, *see United States v. Atkinson*, 259 F.3d 648, 654 (7th Cir. 2001), but we will not search the record and craft Stabile's arguments for him.

AFFIRMED.